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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/897,324	07/02/2001	Hiroyuki Makita	10973-051001	2061
26211	7590	10/19/2004	EXAMINER	
FISH & RICHARDSON P.C. CITIGROUP CENTER 52ND FLOOR 153 EAST 53RD STREET NEW YORK, NY 10022-4611			LIEU, JULIE BICHNGOC	
		ART UNIT		PAPER NUMBER
				2636

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/897,324	MAKITA ET AL.
Examiner	Art Unit	
Julie Lieu	2636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 July 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-5 and 8-11 is/are rejected.
- 7) Claim(s) 6,7 and 12 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

1. This Office Action is in response to Applicant's Response filed July 06, 04. No claims have been amended, canceled or added.

Claim Rejections - 35 USC § 103

2. Claims 1-4 and 8-11 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Schofield et al. (US Patent No. 5,796,094) in view of Zander (DE 19953447).

Claim 1:

Schofield discloses a vehicle headlamp control system comprising variable intensity control means for varying the luminous intensity distribution according to the detection of a vehicle in front of the subject vehicle and the subject vehicle speed. The reference disclose the detection of the presence of a vehicle in front of the subject vehicle but fails to disclose the use of a vehicle-to-vehicle distance measuring means. However, Zander teaches a vehicle headlamp control system which includes distance sensors 8 to determine the distance between the vehicles to control the brake or tail light intensity level to reduce glare for the following driver. In light of this teaching, it would have been obvious to one skilled in the art to readily recognized applying this concept in the system of Schofield because it would help to reduce the light distribution towards an approaching or leading vehicle to avoid causing glare for the other driver.

Claim 2:

It would have been obvious to one skilled in the art to fix the luminous intensity of the lamp when the speed of the subject vehicle is at a predetermined value or lower, of which such speed is low enough so that the separation between the two vehicles would not become too close to quickly.

Claim 3:

The use of cut-off line to control the light distribution causing the headlamp intensity to reduce in a particular level such as to change high beam to low beam is well known in the art. Thus, a skilled artisan would have readily recognized using cut-off lines to vary the luminous intensity distribution by vertically moving the position of the cut-off line since this is the most common method of changing light distribution of vehicle headlamps.

Claim 4:

It would have been obvious to one skilled in the art to fix the luminous intensity distribution of the lamp when the speed of the subject vehicle is at a predetermined value or lower, of which such speed is low enough so that the separation between the two vehicles would not become too close to quickly. It would also been obvious to one skilled in the art to keep it at the lowermost position as desired because when the speed of the vehicle is kept a low level low enough so that the distance between the subject vehicle and the leading vehicle is at a desired distance.

Claims 8-11:

The rejection of claims 8-11 recites the rejection of claims 1-4, except they are method claims.

3. Claim 5 is again rejected under 35 U.S.C. 103(a) as being unpatentable over Schofield et al. (US Patent No. 5,796,094) in view of Zander (DE 19953447) and Smalls (US Patent No. 5,914,651)

Claim 5:

It is not clear whether the distance measuring means in Zander is mounted in the lamp body of the first of the headlamps or not; however, this concept is well known in the art as shown in Smalls wherein sensors to detect motion or lights from the headlights of a vehicle are mounted within the hazard lamp body. Therefore, it would have been obvious to one skilled in the art to use this concept in the combined system of Schofield and Zander because it is conventional in the art and also the housing of the headlights of the vehicle is a convenient and safe place to house the distance measuring means.

Allowable Subject Matter

4. Claims 6-7 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's Arguments

5. Applicant's arguments filed 1/2/04 have been considered but are not deemed persuasive.

Argument 1:

The applicant has argued that Schofield does not disclose determining the actual distance between the two vehicles. Regarding the German reference, the applicant has argued that it relates to situation in which the object is behind the vehicle.

Argument 2:

The applicant has further asserted that there is no suggestion of varying luminosity according to the vehicle-vehicle distance “when the speed of the first vehicle exceeds a predetermined value”. The applicant has pointed out the only location in the reference that mention the vehicle speed in Schofield is col. 3, lines 58-64, and there is no disclosure how the state of the headlight should be adjusted based on the vehicle-vehicle distance and vehicle’s speed.

Response to Applicant's Arguments

6. Applicant's arguments filed 1/2/04 have been considered but are not deemed persuasive.

Response to argument 1:

The examiner agrees that Schofield fails to disclose the distance measurement means, thus, the German reference (Zender) is used to show that a distance measurement means in this system is old in the art and would be combined with the Schofield system for the reason stated in the rejection.

Zander is used to show that the use of distance measuring means in similar system and environment as Schofield is old in the art, therefore, it would have been obvious to one skilled in the art to employ this concept in the system of Schofield for the above stated reason. The distance measurement device in Zander would be used in Schofield to measure distance with respect to the object in front of the vehicle. A skilled artisan would have readily recognized that the function of the distance measuring device would still be the same. Moreover, there is no stated reason in Zander that it can not be used to detect distance with respect to the object in front of the vehicle.

Response to argument 2:

The examiner submits that the speed is used to process the control signal in Schofield. It would be inherent that the speed in Schofield must exceed a predetermined value, which is 0 in the case for the system to consider that the vehicle is actually moving.

The applicant's arguments are not deemed persuasive, thus, the rejection is maintained.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

Art Unit: 2636

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 571-272-2978. The examiner can normally be reached on Mon-Fri 9AM-6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Julie Lieu
Primary Examiner
Art Unit 2636

Oct. 15, 04